

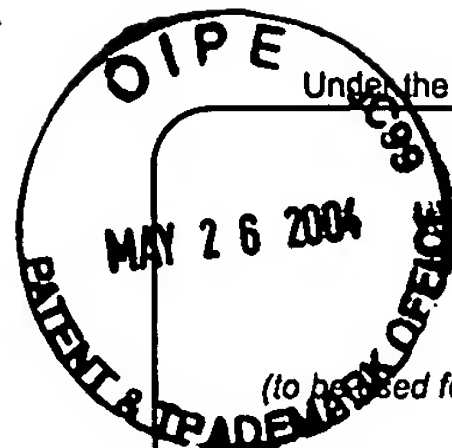
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PTO/SB/21 (04-04)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/644,353
	Filing Date	August 20, 2003
	First Named Inventor	Daniel R. Nett
	Art Unit	1761
	Examiner Name	Timothy F. Simone
Total Number of Pages in This Submission	Attorney Docket Number	KH0693US (#90636)

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): postcard receipt
<b>Remarks</b>		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Sean F. Mellino; D. Peter Hochberg Co., L.P.A.		
Signature	<i>Sean F. Mellino</i>		
Date	May 24, 2004		

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Date: May 24, 2004

Sean Mellino  
Sean Mellino

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Daniel R. Nett  
Serial No. : 10/644,353 / Conf. No. 5852  
Filing Date : August 20, 2003  
Examiner : Timothy F. Simone  
Group Art Unit : 1761  
Title : PIVOTABLE GRID FOR A BARBECUE  
Attorney File : KH0693US (#90636)

Mail Stop Non Fee Amendment  
Commissioner for Patents  
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Alexandria, Virginia 22313-1450

Reply to Office Action Issued February 25, 2004

Dear Sir:

In response to the Office action dated February 25, 2004, please amend the above identified application without prejudice as follows:

**In the Drawings:**

Please replace the drawings as originally filed with the replacement formal drawings enclosed herewith. No new matter has been added.

### **REMARKS**

The Office action dated February 25, 2004 is acknowledged. Claims 1-23 are pending in the instant application and have been rejected by the present Office action. Reconsideration is respectfully requested in light of the following remarks.

#### **Rejection of Claims 1-23 under 35 U.S.C. 102(b)**

Claims 1-23 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,979,437 (Giebel). Specifically, the Examiner states that the features of the instantly rejected claims are structurally met by the reference to Giebel.

The applicant respectfully disagrees with the Examiner's conclusion and submits that each and every feature of the present invention as set forth in the claims of the present application is not taught or described in Giebel.

The applicant submits that the present invention as set forth in the instant claims are directed to a barbecue grill comprising various components, such as a base cavity, top lid, pivots, lift arms, cooking and warming grids and a pair of pivot extensions (independent claims 1, 19, 20 and 23). The applicant further submits that the pair of pivot extensions, which are recited in each of independent claims 1, 19, 20 and 23, are an important feature of the present invention and are not taught or disclosed anywhere in the prior art, specifically in Giebel.

As set forth in the present application, "grill 10 includes a pair of pivot extensions 60a, b (Figs. 1, 4 and 5) ... which are triangular structures" (specification, paragraph 000029). The specification goes on to provide that the "pivot extensions 60a, b are provided so as to raise the pivot point of first pair of pivots 66a, b ... from a level that is

even with that of lower grid 40 to a level that is above the level of lower grid 40” (paragraph 000031). The same paragraph provides that “by way of pivot extensions 60a, b, first pair of pivots 66a, b are raised to a level higher than that of lower grid 40.” In other words, the respective pivots, by way of the pivot extensions, would be higher than those disposed in a conventional manner, such as in the barbecue of Giebel.

The present specification goes on to provide that the employment of the pivot extensions in conjunction with the lift arms raises the level of the pivots such that the space between the lower grid and upper grid is increased, without increasing the overall height of the barbecue (paragraph 000031, page 9). This increased distance between the grids allows the grids to be constructed having surface areas that are about 18% greater than grids used in a comparably sized, conventional barbecue (paragraph 00036, page 12).

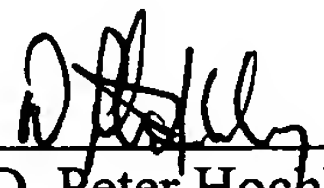
In other words, a comparably sized barbecue employing the pivot system of Giebel would have a smaller space between the respective grids, while employing grids having a smaller surface area, than a barbecue employing the pivot system of the present invention, which includes the pivot extensions.

Because each and every feature of the present invention as recited in independent claims 1, 19, 20 and 23 is not taught or disclosed in the Giebel prior art reference, the applicant respectfully submits that Giebel does not anticipate the present invention as recited in the rejected claims. Giebel does not teach or suggest such claimed aspects of the present invention. It is therefore respectfully requested that this rejection be withdrawn.

### **Conclusion**

For the foregoing reasons, it is believed that the present application as amended is in condition for allowance, and such action is earnestly solicited. The Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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